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United States Patent & Trademark Office; U.S. DEPARTMENT OF COMMERCE

PRE-APPEAL BRIEF REQUEST FOR REVIEW	Docket Number (Optional) 58268.09057
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed Name _____	Application Number: 09/709,532 Filed: November 13, 2000
	First Named Inventor: Michael J. BOWES
	Art Unit: 2616
	Examiner: Michael J. Moore

Mail Stop AF

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a Notice of Appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

- ☐ Applicant/Inventor.
- ☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under
37 CFR 3.73(b) is enclosed

☒ Attorney or agent of record.
Registration No. 54,749

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Reg. No. is acting under 37 CFR 1.34 _____

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September 8, 2006

Date

NOTE: Signatures of all of the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Michael J. BOWES

Art Unit: 2616

Application No.: 09/709,532

Examiner: Michael J. Moore, Jr.

Filed: November 13, 2000

Attorney Dkt. No.: 58268.09057

For: HIGH SPEED FLOW CONTROL METHODOLOGY

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

September 8, 2006

Sir:

In accordance with the Pre-Appeal Brief Conference Pilot Program guidelines set forth in the July 12, 2005 Official Gazette Notice, Applicant hereby submits this Pre-Appeal Brief Request for Review of the final rejections of claims 1, 2 and 4-38 in the above identified application. Claims 1, 2 and 4-38 were finally rejected in the Office Action dated June 9, 2006. Applicants filed a Response to the Final Office Action on July 28, 2006, and the Office issued an Advisory Action dated August 17, 2006 maintaining the final rejections of claims 1, 2 and 4-38. Applicants hereby appeal these rejections and submit this Pre-Appeal Brief Request for Review.

The final Office Action rejected claims 1, 2, 4-12, 14, and 16-38 under 35 U.S.C. §102(b) as being anticipated by Beuk (U.S. Patent No. 5,774,673). Applicants submit that there is clear error with regard to at least one element of claims 1, 14, and 28, upon which claims 2, 4-12, 16-27, and 29-38 are dependent.

Applicants respectfully submit that the present claims recite subject matter which is neither disclosed nor suggested by Beuk, and that, therefore, the final rejections are improper and without basis. In view of this clear error, it is requested that this rejection be withdrawn. Specifically, Beuk does not disclose or suggest "wherein said step of transmitting a packet request message further comprises the step of generating the packet request message, the step of generating the packet request message comprising generating a request non-payload bit string

corresponding to a pre-programmed packet request register,” as recited in claim 1. Beuk also fails to disclose or suggest “wherein the packet request message and the request acknowledge message each include a control bit string, an identification bit string, and at least one parity bit,” as recited in claim 1.

The final Office Action appears to take the position that the TYPE field of Beuk corresponds to “a request non-payload bit string corresponding to a pre-programmed packet request register,” as recited in claim 1. The Office Action also takes the position that the TYPE field of Beuk corresponds to the control bit string, identification bit string and at least one parity bit that are included in the packet request message and the request acknowledge message of the present invention. Applicants respectfully submit, however, that Beuk contains no disclosure regarding the TYPE field being a request non-payload bit string corresponding to a pre-programmed packet request register, and a control bit string, identification bit string and at least one parity bit.

Rather, Beuk merely discloses that various frames (acknowledgement frame, broadcast frame, group frame) include a TYPE field. Specifically, Beuk teaches that the “TYPE field comprises an A/M field and an B/G field. The A/M field is used to distinguish between an acknowledgment frame and a message frame. The B/G field is used to distinguish between the two types of message frames: a broadcast frame and a group frame” (Beuk, Column 12, lines 36-42). Beuk does not disclose or suggest that the TYPE field corresponds to any type of register. Beuk only discloses that the TYPE field includes entries which indicate whether it is an acknowledgment or message. Applicants respectfully assert that this disclosure does not correspond to the generating of a request non-payload bit string corresponding to a pre-programmed packet request register, as recited in the present claims.

Furthermore, the message receiving means of Beuk does not correspond to the pre-programmed packet request register of the present invention. Beuk discloses that the message receiving means 210 is for receiving a message frame (Beuk, Column 11, lines 33-34) and that “the message receiving means 210 only receives a group frame 630 if the channel field specifies a channel which has been locally activated (i.e. in the receiving apparatus) by the channel activation means 240” (Beuk, Column 12, lines 9-12). Beuk also discloses that the message receiving means 210 receives the activation request message 500 and verifies that the message

has been received correctly. Beuk, however, fails to disclose or suggest that the message receiving means is pre-programmed and that it corresponds to the request non-payload bit string.

Beuk, as mentioned above, merely discloses that the message receiving means 210 is a component which may receive a group frame under certain circumstances. Beuk does not disclose or suggest that generating a packet request message includes generating a request non-payload bit string corresponding to a pre-programmed packet request register, as recited in the claims. In other words, according to the Office Action's rationale, Beuk allegedly discloses that the TYPE field of the frames 610 and 630 is generated in order to correspond to the message receiving means 210. However, Beuk contains no such disclosure. Beuk only discloses that the message receiving means 210, as suggested by its name, may receive message frames such as the group frame 630. Therefore, for at least the reasons discussed above, Beuk fails to disclose or suggest "wherein said step of transmitting a packet request message further comprises the step of generating the packet request message, the step of generating the packet request message comprising generating a request non-payload bit string corresponding to a pre-programmed packet request register," as recited in claim 1. Therefore, the rejection of claim 1 should be withdrawn.

Beuk also fails to disclose or suggest that the first identification number and the second identification number are configured to correlate the packet request message with a corresponding request acknowledge message, as recited in claims 14 and 28. According to an embodiment of the present invention, this identification string is used to identify and correlate a specific packet request message with the corresponding request acknowledge message. Through implementation of this correlation scheme, accurate flow control across a high speed link is generated and, therefore, queue or buffer management requirements are reduced at the receiving end (Specification, page 108, lines 19-28). Applicants respectfully assert that Beuk fails to disclose or suggest that the identification strings are configured to correlate the packet request message with the corresponding request acknowledge message, as recited in the present claims.

The Office Action takes the position that the identification bit string correlates the packet request message with a corresponding request acknowledge message "is anticipated by the channel field (first identification number) shown in group frame 630 (packet request message) of figure 3 that is copied (correlates) to the channel field (second identification number) of

acknowledgement frame 640 (request acknowledgment message) of figure 3 and that is used to filter acknowledgement messages as spoken of on column 4, lines 38-48 and column 12, lines 19-28” (Office Action, page 8, lines 15-22). Applicants respectfully disagree. Applicants respectfully assert that copying a first identification number to another location does not produce a second identification number. Further, if the channel field is merely copied to a different location as disclosed in Beuk there would be no need to determine “if the second identification number matches the first identification number,” as recited in claims 14 and 28. Applicants further assert that copying a field to another field is not the same as correlating a request message with an acknowledge message, as recited in the present claims.

Additionally, Beuk specifically discloses that the channel field, included in the group frame 630, is used for identifying a communication channel. Each apparatus of Beuk includes channel activation means 240 for locally activating specific communication channels. The message sending means 200 only transmits a group frame 630 if the channel field specifies a channel which has been locally activated by the channel activation means 240 (Beuk, Column 11, line 67 - Column 12, line 7).

Therefore, according to Beuk, the channel field is utilized to identify a communication channel. In addition, according to Beuk, a determination is made whether to transmit a group frame based on whether the channel field specifies a locally activated channel (Beuk, Column 12, lines 10-28). However, Beuk does not disclose or suggest that the channel field is used to identify and correlate a specific request message with a corresponding acknowledgment message. Beuk merely discloses that the acknowledgment frame may include the same channel field as the group frame, and that the channel identification may be copied from the channel field of the received group frame to the channel field of the acknowledgment frame. The channel identification, as suggested by its name, is used to identify the communication channel used. Beuk does not disclose or suggest that the channel field or channel identification is used to correlate a specific request message with a corresponding acknowledgment message, as recited in the present claims.

The Office Action acknowledges that the channel field of Beuk is used to identify a communication channel, but alleges that the channel field also “correlates a packet request message with a corresponding request acknowledge message” (Office Action, page 16, line 19 –

page 17, line 2). The Office Action offers no rationale for this conclusion besides stating that the channel field is copied from the group frame 640 to the acknowledgment frame 640. However, as outlined above, the mere fact that Beuk discloses that the channel field may be copied from one location to another does not anticipate the limitation of "wherein the first identification number and the second identification number are configured to correlate the packet request message with a corresponding request acknowledge message," as recited in claims 14 and 28. This is yet another example of clear error of fact in the rejection.

For at least the reasons discussed above, Applicants respectfully submit that the rejection of claims 1, 14, and 28 is in clear error and should be withdrawn. Claims 2, 4-12, 16-27, and 29-38 should also be allowed for at least their dependence upon claims 1, 14, and 28, and for the specific limitations recited therein.

Reconsideration and withdrawal of the rejections, in view of the clear errors in the Office Action, is respectfully requested. In the event this paper is not being timely filed, the applicant respectfully petitions for an appropriate extension of time. Any fees for such an extension together with any additional fees may be charged to Counsel's Deposit Account 50-2222.

Respectfully submitted,



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Enclosures: PTO/SB/33 Form
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